

REMARKS

In the Office Action¹, the Examiner rejected claims 29 and 30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,978,471 to Klopfenstein (“Klopfenstein”). Claims 1-28 were previously canceled and claims 29 and 30 remain under examination.

Applicant respectfully traverses the above listed rejection of claims 29 and 30 for the reasons discussed further below. Nevertheless, to even more clearly define the claimed subject matter, Applicant has amended claims 29 and 30. Specifically, claim 29 is amended to recite “determining if the second information is consistent with the first information.” Claim 30, although of different scope, is amended in a similar manner as claim 30. Support for the amendments to claims 29 and 30 may be found at, for example, page 10, 5th paragraph, of Applicant’s specification.

Applicant respectfully traverse the Examiner’s rejection of claims 29 and 30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,978,471 to Klopfenstein (“Klopfenstein”). No *prima facie* case of obviousness is established.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” M.P.E.P. § 2145. Furthermore, “[t]he

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement of characterization in the Office Action.

mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” at the time the invention was made. M.P.E.P. § 2143.01(III), internal citation omitted. Moreover, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences *themselves* would have been obvious, but whether the claimed invention *as a whole* would have been obvious.” M.P.E.P. § 2141.02(I), internal citations omitted (emphasis in original).

“[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). ... The factual inquiries...[include determining the scope and content of the prior art and]...[a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Claim 29 recites, in part:

[a] method for maintaining a database in memory of a digital television receiver for display of digital television broadcast signals carried by a digital broadcast stream comprising system control data, the system control data comprising first information relating to an ATSC broadcast standard and also comprising second information relating to an MPEG-2 broadcast standard, the method comprising:

receiving the digital broadcast stream; . . .

extracting the second information from the system control data if the second information is present in the system control data;

determining if the second information is consistent with the first information; and

storing a second set of data entries only if the extracted second information is consistent with the first set of data entries.

Emphasis added.

The Examiner acknowledges that Klopfenstein fails to teach or suggest “both [ATSC and MPEG] contained in the digital stream.” Office Action at 3. Klopfenstein thus does not teach or suggest the claimed “first information” or “second information” and therefore cannot disclose “determining if the second information is consistent with the first information,” as recited in claim 29.

Moreover, the Examiner contends that it would have been obvious to one of ordinary skill in the art to modify Klopfenstein to include “MPEG and PSIP standards in the digital stream . . . because it is a typical situation that allows both MPEG and PSIP data to be in a single broadcast stream for proper reception.” Id. Even assuming *arguendo* that the Examiner is correct, which Applicant does not concede, Klopfenstein still fails to teach or suggest at least the claimed “extracting” of both a first and second signal and “storing a second set of data entries only if the extracted second information is consistent with the first set of data entries,” as recited in claim 29 (emphasis added).

Klopfenstein merely discloses an iterative process that attempts to update a database based on a single signal or lack thereof. As disclosed in Fig. 3, Klopfenstein discloses first attempting to update an internal database using “a digital PSIP guide,” and if unsuccessful, then attempts to determine “if the received broadcast channel is analog and if so acquires a program guide conveyed in VBI data.” Col. 5, line 65-col. 6, line 6. Should this fail to provide program guide data, Klopfenstein then discloses

attempting to update an internal data base using “a digital MPEG PSI guide.” Col. 6, lines 6-10. Should the system taught by Klopfenstein still fail to be able to update the internal database, “processor 60 identifies this particular received channel as being without an associated guide in step 250.” Col. 6, lines 15-17. Klopfenstein thus discloses a single update to an internal database based on a single suitable signal or lack thereof. See Fig. 3.

Klopfenstein, however, fails to teach or suggest at least the claimed “[digital broadcast stream comprising system control data and] extracting the [first and] second information from the system control data if the second information is present in the system control data; and . . . storing a second set of data entries only if the extracted second information is consistent with the first set of data entries,” as recited in claim 29. (emphasis added).

In view of the above deficiencies of the cited references, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Accordingly, no reason has been clearly articulated as to why claim 29 would have been obvious to one of ordinary skill in view of the prior art. Claim 30, although of different scope, recites similar elements as claim 29 and is allowable for at least the same reasons as claim 29. Thus, a *prima facie* case of obviousness has not been established for claims 29 or 30. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 29 and 30 under § 103.

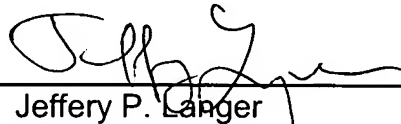
In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Jeffery P. Langer
Reg. No. 61,651